

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Holly Creek Production Corporation                    )        CASE NO. 8842

ORDER DIRECTING FILING OF TARIFF

Holly Creek Production Corporation ("Holly Creek") produces natural gas from various wells in Kentucky. This gas is sold for ultimate consumption within the Commonwealth of Kentucky.

KRS 278.010(3) states as follows:

"Utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with:

. . .

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, or power or other uses; (Emphasis supplied.)

Under this definition, Holly Creek, as the operator of facilities used for the production of natural gas for sale to the public, is a utility subject to the regulation of this Commission. KRS 278.040(2) provides that "[t]he commission shall have exclusive jurisdiction over the regulation of rates and service of utilities...." Accordingly, the rates Holly Creek charges its customers are clearly subject to the jurisdiction of the Kentucky Public Service Commission.

The rates Holly Creek is currently charging for the gas it produces are those set forth in the Natural Gas Policy Act of 1978 ("NGPA"). 1/ The NGPA prescribes maximum prices that producers may charge for gas that falls within certain specifically defined categories. However, the NGPA did not take away the authority of individual states to set producer prices that are lower than the maximum NGPA-established prices. This is clear from Section 602 of the NGPA which states as follows:

SEC. 602. EFFECT ON STATE LAWS.

(a) AUTHORITY TO PRESCRIBE LOWER MAXIMUM LAWFUL PRICES.--

Nothing in this Act shall affect the authority of any State to establish or enforce any maximum lawful price for the first sale of natural gas produced in such State which does not exceed the applicable maximum lawful price, if any, under title I of this Act.

Based upon the above considerations and being advised, the Commission HEREBY ORDERS that Holly Creek Production Corporation shall, within 30 days from the date of this Order, file a tariff with this Commission setting forth the rates it now charges for natural gas produced from its wells. The Commission will review the rates contained therein to determine if said rates are fair, just and reasonable as required by KRS 278.030(1).

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1/ Public Law 95-621, November 9, 1978.

Done at Frankfort, Kentucky, this 20th day of May, 1983.

PUBLIC SERVICE COMMISSION

Katherine Randall  
For the Commission

ATTEST:

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Secretary